1	NICHOLAS STROZZA, ASSISTANT U.S. TRUSTEE State Bar #CA 117234 WILLIAM B. COSSITT, #3484 Office of the United States trustee 300 Booth Street, Room 3009 Reno NV 89509 Telephone: (775) 784-5335 Fax: (775) 784-5531				
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6	Attorneys for United States Trustee Tracy Hope Davis				
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8	UNITED STATES BANKRUPTCY COURT				
9	DISTRICT OF NEVADA				
10	In re:)	Case no: BK-N-14-50333-BTB	
11	ANTHONY THOMAS, and, WENDI THOMAS,))	Chapter 11	
12				US TRUSTEE'S MOTION TO DESIGNATE CASE AS	
13)	SMALL BUSINESS CASE	
14)	Hearing Date: July 30, 2014	
15		Debtors,)	Hearing Time: 10:00 a.m. Est. Time Req.: 15 min.	
16	The United States Trustee ("US Trustee"), hereby submits her Motion To Designate Case				
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18	As Small Business Case ("Motion"), based upon 11 U.S.C. § 101(51)(C) and (D), and Federal				
19	Rules of Bankruptcy Procedure ("FRBP") 1020.				
20	The US Trustee represents that:				
21	1. The Debtors' aggregate debts are not more than \$2,490,925;				
22	2. The US Trustee has not appointed an unsecured creditors committee; and				
23	3. T	The Debtors' primary activ	vity is no	t the business of owning or operating real	
24	property.				
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This Motion is based upon the following points and authorities, together with the entire record in this case, of which the US Trustee respectfully requests the Court take judicial notice, and such evidence as may be introduced at the hearing on this motion.

POINTS AND AUTHORITIES

Pursuant to 28 U.S.C. § 586(a)(3), the US Trustee is charged with supervising the administration of cases and trustees under the Bankruptcy Code. To enable the US Trustee to carry out that duty, Congress has granted the US Trustee standing to raise and to "appear and be heard on any issue in any case or proceeding" brought under the Bankruptcy Code. 11 U.S.C. § 307. Pursuant to 28 U.S.C. § 586(a)(7), the US Trustee is instructed to review and monitor diligently small business cases.

A. <u>Statement of Facts:</u>

- The Debtors filed voluntary bankruptcy under chapter 11 on March 4, 2014.
 Docket #1.
- 2. The Debtors' Summary Of Schedules lists their total debt at \$1,262,568.94. Docket #1, pg. 14.
 - 3. The Debtors' Schedule I states they have \$0.00 income. Docket #1, pgs. 28-29.
- 4. The Debtors' affiliate case, At Emerald, LLC, BK-N-14-50331-btb has total debt of \$541,200. Case No. 14-50331-btb, Docket #1, pg. 6.
 - 5. The US Trustee has not appointed an unsecured creditors committee.
 - 6. The 341 Hearing was concluded on March 31, 2014.

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B. <u>Legal Authorities:</u>

Section 101(51)(D) states:

The term "small business debtor" ... means a person engaged in commercial or business activities (... excluding a person whose primary activity is the business of owning or operating real property or activities incidental thereto) that has aggregate non-contingent liquidated secured and unsecured debts as of the date of the filing of the petition or the date of the order for relief in an amount not more than \$2,490,925 ... for a case in which the United States trustee has not appointed under section 1102(a)(1) a committee of unsecured creditors.

FRBP 1020(b) provides that the United States Trustee may object to the debtor's statement regarding being a small business debtor, if done within 30 days of the conclusion of the 341 Hearing, or within 30 days of any amendment.

C. Application of facts and legal authorities:

The Debtors' aggregate debts are not more than \$2,490,925, even when including the debt of the affiliate case. Docket #1, pg. 14; Case No. 14-50331-btb, Docket #1, pg. 6. The US Trustee has not appointed an unsecured creditors committee. The Debtors' Schedule I states \$0.00 income and they are therefore not in the business of owning or operating real property. Docket #1, pgs. 28-29. Therefore, the Debtors are a small business debtor.

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CONCLUSION

WHEREFORE, for all the reasons stated above, the US Trustee respectfully requests the Court grant the US Trustee's Motion, order this case to be designated as a small business case, and grant such other relief as the Court deems proper.

DATED this 30th day of April, 2014.

Respectfully submitted,

Nicholas Strozza State Bar # CA 117234 William B. Cossitt State Bar #3484 300 Booth Street, #3009 Reno NV 89509 (775) 784-5335

/s/ WILLIAM B. COSSITT

Attorneys for United States Trustee Tracy Hope Davis

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2	CERTIFICATE OF SERVICE			
3	1. On April 30, 2014, I served the foregoing US TRUSTEES MOTION TO DESIGNATE CASE AS A SMALL BUSINESS CASE			
5	2. I served the above-named document(by the following means to the persons as listed below:			
6	☑ a. ECF System:			
7 8	KEVIN A. DARBY kevin@darbylawpractice.com, alecia@darbylawpractice.com;sarah@darbylawpractice.com;itati@darbylawpractice.com			
9	;tricia@darbylawpractice.com • STEFANIE T. SHARP ssharp@rbsllaw.com,			
10	btaylor@rbsllaw.com;czaehringer@rbsllaw.com • ALAN R SMITH mail@asmithlaw.com			
11	U.S. TRUSTEE - RN - 11			
12				
13	b. U.S. Mail, postage fully prepaid (list persons and addresses):			
14	ANTHONY THOMAS WENDI THOMAS 7725 PEAVINE PEAK COURT RENO, NV 89523			
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19	I declare under penalty of perjury that the foregoing is true and correct.			
20	Signed: April 30, 2014.			
21	/s/ Robbin Little ROBBIN LITTLE			
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